

**Notice of Allowability**

Application No.

09/025,635

Examiner

Anne R. Kubelik

Applicant(s)

PANG ET AL.

Art Unit

1638

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to response filed 8/16/04.
2. ☒ The allowed claim(s) is/are 1, 12, 16-28, 32, 46, 58, 70, 95, 97-99 and 101-103, renumbered 1-18 respectively.
3. ☒ The drawings filed on 3/5/04 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Examiner's Amendment*

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michael Goldman on 21 October 2004.

Claim 1 (currently amended) A DNA construct comprising in operable linkage:

a single promoter sequence;

a first DNA molecule which has a length that is insufficient to independently impart resistance to a virus to plants transformed with said first DNA molecule, wherein the first DNA molecule is from a DNA encoding a plant viral coat protein and is at least 110 nucleotides in length;

a second DNA molecule, wherein the second DNA molecule is coupled to the first DNA molecule, wherein said second DNA molecule is at least 400 nucleotides in length, wherein the first DNA molecule and the second DNA molecule are heterologous to each other and collectively achieve post-transcriptional silencing of ~~a~~ the plant viral coat protein and impart resistance to the virus to plants transformed with said DNA construct; and wherein the single promoter sequence effects transcription of the first DNA molecule and the second DNA molecule; and

a single termination sequence which ends transcription of the first DNA molecule and the second DNA molecule.

In claim 46, line 3, --, thereby-- was inserted after "1".

In claims 70 and 103, line 2, "comprising" was replaced with --, wherein the method comprises--

Claim 95. (currently amended) A DNA construct comprising in operable linkage:  
a single promoter sequence which effects transcription of a plurality of DNA molecules;  
a plurality of DNA molecules each of which is at least 110 nucleotides in length and at least one of which is of a length insufficient to impart resistance to a plant virus to plants transformed therewith and is from a DNA encoding a plant virus coat protein, wherein the plurality of DNA molecules collectively are at least 510 nucleotides in length, wherein the plurality of DNA molecules are heterologous to each other, and wherein the plurality of DNA molecules effect post-transcriptional silencing of the plant virus coat protein and impart resistance to the plant virus in plants transformed with the DNA construct; and  
a single termination sequence which ends transcription of the plurality of DNA molecules.

In claim 101, line 3, --, thereby-- was inserted after "95".

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2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne R. Kubelik, whose telephone number is (571) 272-0801. The examiner can normally be reached Monday through Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at (571) 272-0804. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Anne R. Kubelik, Ph.D.  
October 21, 2004



**ANNE KUBELIK**  
**PATENT EXAMINER**